



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

WB34 2004

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 13, 2003

Tip Harwood
Coalition for Water
P.O. Box 53
Arco, ID 83213

Dear Mr. Harwood:

IDWR received your letter dated January 3, 2004 on February 5, 2004. Your letter requested clarification of instructions given to the Water District 34 Watermaster, dated November 17, 2003, regarding the delivery of winter stockwater. In your letter you stated that you had arrived at seven conclusions, and requested that I respond to these conclusions.

Conclusion 1 is not applicable for all water rights. Some water rights were decreed with a winter stockwater flow rate of 0.02 cfs, some water rights were decreed with a higher flow rate.

Conclusion 2 is not applicable for all water rights. For water rights decreed with the comment "The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described," the amount of water decreed for stockwater may be delivered to the boundary of the place of use described. The place of use boundary may or may not be coincident with a property boundary. For water rights decreed without the comment, the amount of water delivered at the diversion heading is limited to the water right flow rate decreed for winter stockwater.

Conclusions 3 and 6 are applicable. Water delivered for winter stockwater rights must be used for stockwater.

Regarding conclusion 4, water cannot legally be diverted from a stream without a valid water right. Water users may have water rights that allow them to use water from more than one source.

Regarding conclusion 5, water delivered during the non-irrigation season may not exceed that required for the beneficial use described on the water right for non-irrigation season use. There may be water rights that allow other beneficial uses, such as fish propagation, during the non-irrigation season.

Regarding conclusion 7, the Watermaster has informed me that Big Lost River Irrigation District (BLRID) staff have been active in monitoring the delivery of stockwater through

the BLRID canal system. Some winter stockwater rights may also be delivered through ditches that are not owned by BLRID.

You also inquired about the duration of delivery. The watermaster is authorized to deliver winter stockwater throughout the season of use authorized by the water right, which typically includes the entire non-irrigation season. Stockwater delivery may not be physically possible during part of the winter due to freezing temperatures, but can be resumed if conditions change. Where the water will be delivered through a delivery system that is owned by an entity other than the water user, the owner must concur with resumption of delivery.

In response to your final question, stockwater should not be delivered if stock are not present at the place of use.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Berkey".

Jennifer Berkey

Water Distribution Section

Attachment

cc: Bob Duke, Watermaster, Water District 34
Bob Schaffer, Big Lost River Irrigation District
IDWR Eastern Region

January 3, 2004

Coalition for Water
P. O. Box 53
Arco, ID 83213

RECEIVED
FEB - 5 2004
Department of Water Resources

Jennifer Berkey
Water Distribution Section
Idaho Dept. of Water Resources
1301 North Orchard Street
Boise, ID 83706

We are writing to you to be sure we understand the instruction you gave to Bob Duke, Water-Master for Basin 34, dated Nov. 17, 2003, concerning stock water delivery during the fall and winter months. Also to find out the length of time period that this water is to be delivered.


The conclusions that we have arrived at are -

1. The amount that any ranch or farm should receive is .02 cubic feet per second, which we think is approximately 9 gallons per minute.
2. That this amount of water is to be delivered to the property line of the patron receiving stock water.
3. That this is for watering livestock only and not to be delivered for any other purpose.
4. That if a patron has access to a live stream source they are not entitled to any additional surface water.
5. That the water delivered through the irrigation canals or ditches are to be only enough water to supply the stock water to those patrons on any given canal or ditch.
6. That surface water is not to be wasted or spread on any land during this period.
7. That once the water is taken from the main source and placed in the Canals or Ditches, it is up to the Big Lost River Irrigation District to manage the water in accordance with these rules.

Another question we have is the duration of delivery. Is it for the fall period only or is it for the entire off irrigation season. The reason we ask this question is that there comes a time in November or in December that the surface water freezes solid and ceases to flow. Also if there are no livestock in the portion of the ranch where the water is delivered, would it be safe to conclude that the water delivery should be curtailed?

Would you please respond to these conclusions and questions.

Thanking you, we are very truly yours,


Coalition for Water
Tip Harwood President
Phone (208) 554-2109